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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,423	01/12/2001	Paul Green	PGR-100	2318

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EXAMINER

WATSON, ROBERT C

ART UNIT PAPER NUMBER

3723

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DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,423

Applicant(s)

GREEN, PAUL

Examiner

Robert C. Watson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 21-38 is/are pending in the application.
- 4a) Of the above claim(s) 23-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 21-22, and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Claim 38 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 38, line 3 "standard" is vague and indefinite. Further, the claim is vague and indefinite since it is not clearly stated if the "first piece" is mountable in "the opening". There is no structural relationship set forth between the "first piece" and "the opening".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 21-22, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweetland in view of Linton et al.

Sweetland shows a jack removably coupled to an A-frame of a trailer.

Linton et al shows a vehicle jack selectively mountable on a vehicle. The mounting arrangement comprises a first piece 38 mounted to the vehicle and a second piece 32 mounted to the vehicle jack. The second piece can transition between a plurality of vertical positions relative to the first piece by virtue of the plural vertically spaced apertures 36 on the second piece. Pins 42 provide a means for releasably securing the second piece selectively relative to the first piece.

To employ anywhere on the Sweetland vehicle A-frame a first piece mounted to the vehicle and a second piece mounted to the vehicle jack would have been obvious

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for one skilled in the art at the time the invention was made in view of the disclosure of Linton. Any frame member on the front of the vehicle may be termed an A-frame coupler. One of ordinary skill in the art would have been motivated to do this in order to enable the A-frame mounted jack of Sweetland to be able to transition between a plurality of vertical positions such that the jack will be initially positioned at a correct vertical position relative to the ground before jacking is begun.

Recitations in the claim as to details of the vehicle A-frame having a hole have not been given patentable weight since this is not part of the trailer jack mounting apparatus. In any case, the Sweetland vehicle A-frame has a hole 25.

Claims 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweetland in view of Linton et al as above applied taken with Ebey.

The Sweetland in view of Linton et al mount arrangement as above applied lacks a means of selectively pivoting the jack to a horizontal or stored position.

Ebey teaches that by virtue of providing mating apertures and a locking pin a jack can be selectively pivotable between a horizontal position and a vertical position.

To provide addition mating holes in the first or second mounting pieces of Linton et al so as to enable the vehicle jack to be pivoted between a horizontal and a vertical position would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Ebey. One of ordinary skill in the art would have been motivated to do this in order to enable the jack to be conveniently pivoted from a use to a stored position. Ebey teaches that the mounts may be removeably mounted while Linton et al teaches that the mounts may be permanently mounted. It is no more

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than an obvious matter of choice to select either of these mounting arrangements absent a showing of criticality.

Claims 23-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made by original presentation of claims and no traverse has been made.

Applicant's remarks have been given careful consideration. However, these remarks are not persuasive that any error has been made in the rejection(s). Applicant's remarks that the Linton et al jack mounting arrangement would not function in a trailer is certainly found to have absolutely no merit. The jack mounting arrangement teachings of Linton et al has universal application to all vehicles. Indeed, Linton et al states in column 1, line 8 that the jack mounting arrangement is for "a vehicle". Applicant presents a long discussion about the Sweetland "keyway" and "flange". This entire discussion is found to be irrelevant because the Sweetland structure has been substituted by the Linton et al structure. Applicant further argues that purpose of the Sweetland reference is defeated by modifying the jack mounting arrangement in the manner taught by Linton et al. The primary purpose of the jack in Sweetland is for raising the vehicle so the purpose of the jack in Sweetland indeed has not been defeated by the Linton et al modification. In any case, the elimination of a feature with the consequent loss of its function (ie., the removability of the jack) is an indication of obviousness. Lastly, applicant's arguments are not commensurate with the extremely broad scope of claim 1. Applicant is merely claiming a first piece and a

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second piece, whereby the first and second pieces can transition between a plurality of positions. Applicant cannot argue that this broad recitation is not shown in Linton et al. The mere choice of the vehicle in which the pieces are mounted such as a vehicle having an A-frame does not make these elements patentable in view of the fact that jacks already exist on vehicles having A-frames as demonstrated by Sweetland.

Further,

Applicant's argument that the references do not show a jack coupled to an A-frame of a trailer ignores the fact that Sweetland shows a jack coupled to an A-frame of a trailer. Further, applicant is not claiming the A-frame of a trailer hence it is no more than a matter of intended use that has no patentable significance as to what the jack is ultimately mounted to. Applicant further states that the references do not show how to movably connect a first piece of a jack relative to a second piece of a jack ignores the fact that Linton et al teaches movably connecting a first piece of a jack relative to a second piece of a jack. Applicant asserts that one skilled in the art would somehow be puzzled as to how to incorporate in the Sweetland jack the teachings of Linton et al of first and second pieces for adjustability in Sweetland. Applicant's statement impermissibly ignores the level of skill of one skilled in the art. Applicant further argues that some of the structure in Linton et al is not "removably mounted". It is the examiner's position that all elements can obviously be removed in the reverse manner from which they were assembled. Even, for argument's sake, if the proposed combination were not removable from the Sweetland A-frame this would not defeat the principle purpose of the Sweetland jack; ie., to lift a trailer A-frame. A jack that is either removable or not removable does not defeat Sweetland's principle purpose of lifting a trailer A-frame. In any case, applicant's remarks are not commensurate with the extremely broad scope of claim 1. Applicant is merely claiming a first piece connected to a second piece whereby the first and second pieces can transition between a plurality of pieces which is exactly what Linton et al shows. Applicant's arguments, accordingly are found to be devoid of merit.

The declaration under 37 CFR 1.132 filed 2/3/04 is insufficient to overcome the rejection of claims 1-12, 21-22, and 38 based upon the Sweetland, Linton et al, and Ebey references as set forth in the last Office action because: the comments alleging the impropriety of the rejection are not commensurate with the extremely broad nature

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of the rejected claims. Further, this declaration is found to be no more than a restatement of the attorney's arguments presented in paper nos. 12 and 14 which have previously been considered and addressed by the examiner in paper nos. 13 and 15.

In view of the foregoing, when all of the evidence is considered, the totality of the rebuttal evidence of nonobviousness fails to outweigh the evidence of obviousness.

Any inquiry concerning this communication should be directed to Robert C.

Watson at telephone number 703 308-1747.

A handwritten signature in black ink, appearing to read 'Robert C. Watson', with a stylized, flowing script.

ROBERT C. WATSON
PRIMARY EXAMINER